

APPEAL NO. 010071

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on December 18, 2000. With respect to the issues before him, the hearing officer determined that the respondent's (claimant) compensable injury of _____, did not extend to his right shoulder and an abdominal aortic aneurysm, and that the claimant had disability, a result of his _____, compensable injury, from June 10, 2000, through the date of the hearing, December 18, 2000. In its appeal, the appellant (carrier) argues that the hearing officer's disability determination is against the great weight of the evidence. The appeal file does not contain a response to the carrier's appeal from the claimant. The claimant also did not appeal the hearing officer's determination that his compensable injury did not extend to the right shoulder or an abdominal aortic aneurysm and those determinations have, therefore, become final pursuant to Section 410.169.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant had disability, as a result of his _____, compensable injury, from June 10, 2000, through the date of the hearing, December 18, 2000. The hearing officer is the sole judge of the weight and credibility of the evidence, including the medical evidence. Section 410.165(a); Texas Employers Ins. Ass'n v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). A disability issue can generally be established by the testimony of the claimant alone, if it is credited by the hearing officer. Texas Workers' Compensation Commission Appeal No. 92069, decided April 1, 1992. It was for the hearing officer, as the trier of fact, to resolve the conflicts and inconsistencies in the evidence and to determine what facts had been established. Garza v. Commercial Ins. Co., 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). Sufficient evidence supports the hearing officer's determination that the claimant had disability, namely the claimant's testimony and the medical evidence from Dr. C, the claimant's treating doctor, taking the claimant off work for his back injury. Nothing in our review of the record reveals that the disability determination is so contrary to the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. As such, no sound basis exists for us to reverse that determination on appeal. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The hearing officer's decision and order are affirmed.

Elaine M. Chaney
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Thomas A. Knapp
Appeals Judge